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SECOND SUBSTITUTE HOUSE BILL 2080

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State of Washington                      55th Legislature                      1997 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Parlette, Reams, Mulliken, Chandler and Boldt)

Read first time 03/10/97.

1            AN ACT Relating to agricultural lands with long-term commercial  
2 significance for the production of food or other agricultural products;  
3 amending RCW 84.34.020, 84.34.070, and 84.34.108; adding a new section  
4 to chapter 84.34 RCW; and creating a new section.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6            NEW SECTION.    **Sec. 1.** A new section is added to chapter 84.34 RCW  
7 to read as follows:

8            (1) An additional type of current use valuation is established in  
9 this section for agricultural lands that is called agricultural lands  
10 with long-term commercial significance.

11            (2) Lands shall be classified as agricultural lands with long-term  
12 commercial significance if:    (a) The lands are designated as  
13 agricultural lands under RCW 36.70A.170(1) by a county, city, or town  
14 planning under RCW 36.70A.040; (b) the lands are devoted primarily to  
15 agricultural uses specified under RCW 36.70A.030(2) and not used for  
16 residential purposes, industrial purposes, or other commercial  
17 purposes; (c) the county, city, or town has adopted its comprehensive  
18 plan and development regulations under RCW 36.70A.070 and 36.70A.040;  
19 and (d) the owner files an application for this status with the county

1 assessor. The owner of lands classified as farm and agricultural lands  
2 may file an application to reclassify the lands as agricultural lands  
3 with long-term commercial significance.

4 The assessed valuation of agricultural lands with long-term  
5 commercial significance shall be one-half of the value of such lands  
6 established under RCW 84.40.030 or the value established under RCW  
7 84.34.065, whichever is lower.

8 (3) The classification of any lands as agricultural lands with  
9 long-term commercial significance shall be removed if either: (a) The  
10 county, city, or town removes the designation of these lands under RCW  
11 36.70A.170(1); or (b) the use of such lands changes to a use not  
12 permitted for designation as agricultural lands with long-term  
13 commercial significance under subsection (2) of this section. After  
14 the removal of the classification of agricultural lands with long-term  
15 commercial significance, the lands shall be valued at their full market  
16 value unless the lands are reclassified under another current use  
17 classification under this chapter. Lands removed from classification  
18 as agricultural lands with long-term commercial significance shall not  
19 be subject to an additional tax, penalties, or interest under RCW  
20 84.34.070 through 84.34.108.

21 **Sec. 2.** RCW 84.34.020 and 1992 c 69 s 4 are each amended to read  
22 as follows:

23 As used in this chapter, unless a different meaning is required by  
24 the context:

25 (1) "Open space land" means (a) any land area so designated by an  
26 official comprehensive land use plan adopted by any city or county and  
27 zoned accordingly(~~(+)~~), or (b) any land area, the preservation of  
28 which in its present use would (i) conserve and enhance natural or  
29 scenic resources, or (ii) protect streams or water supply, or (iii)  
30 promote conservation of soils, wetlands, beaches or tidal marshes, or  
31 (iv) enhance the value to the public of abutting or neighboring parks,  
32 forests, wildlife preserves, nature reservations or sanctuaries or  
33 other open space, or (v) enhance recreation opportunities, or (vi)  
34 preserve historic sites, or (vii) preserve visual quality along  
35 highway, road, and street corridors or scenic vistas, or (viii) retain  
36 in its natural state tracts of land not less than one acre situated in  
37 an urban area and open to public use on such conditions as may be  
38 reasonably required by the legislative body granting the open space

1 classification, or (c) any land meeting the definition of farm and  
2 agricultural conservation land under subsection (8) of this section.  
3 As a condition of granting open space classification, the legislative  
4 body may not require public access on land classified under (b)(iii) of  
5 this subsection for the purpose of promoting conservation of wetlands.

6 (2) "Farm and agricultural land" means either (a) any parcel of  
7 land that is twenty or more acres or multiple parcels of land that are  
8 contiguous and total twenty or more acres (i) devoted primarily to the  
9 production of livestock or agricultural commodities for commercial  
10 purposes, (ii) enrolled in the federal conservation reserve program or  
11 its successor administered by the United States department of  
12 agriculture, or (iii) other similar commercial activities as may be  
13 established by rule (~~following consultation with the advisory~~  
14 ~~committee established in section 19 of this act~~); (b) any parcel of  
15 land that is five acres or more but less than twenty acres devoted  
16 primarily to agricultural uses, which has produced a gross income from  
17 agricultural uses equivalent to, as of January 1, 1993, (i) one hundred  
18 dollars or more per acre per year for three of the five calendar years  
19 preceding the date of application for classification under this chapter  
20 for all parcels of land that are classified under this subsection or  
21 all parcels of land for which an application for classification under  
22 this subsection is made with the granting authority prior to January 1,  
23 1993, and (ii) on or after January 1, 1993, two hundred dollars or more  
24 per acre per year for three of the five calendar years preceding the  
25 date of application for classification under this chapter; (c) any  
26 parcel of land of less than five acres devoted primarily to  
27 agricultural uses which has produced a gross income as of January 1,  
28 1993, of (i) one thousand dollars or more per year for three of the  
29 five calendar years preceding the date of application for  
30 classification under this chapter for all parcels of land that are  
31 classified under this subsection or all parcels of land for which an  
32 application for classification under this subsection is made with the  
33 granting authority prior to January 1, 1993, and (ii) on or after  
34 January 1, 1993, fifteen hundred dollars or more per year for three of  
35 the five calendar years preceding the date of application for  
36 classification under this chapter. Parcels of land described in (b)(i)  
37 and (c)(i) of this subsection shall, upon any transfer of the property  
38 excluding a transfer to a surviving spouse, be subject to the limits of  
39 (b)(ii) and (c)(ii) of this subsection. Agricultural lands shall also

1 include such incidental uses as are compatible with agricultural  
2 purposes, including wetlands preservation, provided such incidental use  
3 does not exceed twenty percent of the classified land and the land on  
4 which appurtenances necessary to the production, preparation, or sale  
5 of the agricultural products exist in conjunction with the lands  
6 producing such products. Agricultural lands shall also include any  
7 parcel of land of one to five acres, which is not contiguous, but which  
8 otherwise constitutes an integral part of farming operations being  
9 conducted on land qualifying under this section as "farm and  
10 agricultural lands"; or (d) the land on which housing for employees and  
11 the principal place of residence of the farm operator or owner of land  
12 classified pursuant to (a) of this subsection is sited if: The housing  
13 or residence is on or contiguous to the classified parcel; and the use  
14 of the housing or the residence is integral to the use of the  
15 classified land for agricultural purposes.

16 (3) "Timber land" means any parcel of land that is five or more  
17 acres or multiple parcels of land that are contiguous and total five or  
18 more acres which is or are devoted primarily to the growth and harvest  
19 of forest crops for commercial purposes. A timber management plan  
20 shall be filed with the county legislative authority at the time (a) an  
21 application is made for classification as timber land pursuant to this  
22 chapter or (b) when a sale or transfer of timber land occurs and a  
23 notice of classification continuance is signed. Timber land means the  
24 land only.

25 (4) "Current" or "currently" means as of the date on which property  
26 is to be listed and valued by the assessor.

27 (5) "Owner" means the party or parties having the fee interest in  
28 land, except that where land is subject to real estate contract "owner"  
29 shall mean the contract vendee.

30 (6) "Contiguous" means land adjoining and touching other property  
31 held by the same ownership. Land divided by a public road, but  
32 otherwise an integral part of a farming operation, shall be considered  
33 contiguous.

34 (7) "Granting authority" means the appropriate agency or official  
35 who acts on an application for classification of land pursuant to this  
36 chapter.

37 (8) "Farm and agricultural conservation land" means either:

38 (a) Land that was previously classified under subsection (2) of  
39 this section, that no longer meets the criteria of subsection (2) of

1 this section, and that is reclassified under subsection (1) of this  
2 section; or

3 (b) Land that is traditional farmland that is not classified under  
4 chapter 84.33 or 84.34 RCW, that has not been irrevocably devoted to a  
5 use inconsistent with agricultural uses, and that has a high potential  
6 for returning to commercial agriculture.

7 (9) "Agricultural lands of long-term commercial significance" means  
8 lands designated by a county, city, or town under RCW 36.70A.170(1)  
9 that have been classified as agricultural lands with long-term  
10 commercial significance under section 1 of this act.

11 **Sec. 3.** RCW 84.34.070 and 1992 c 69 s 10 are each amended to read  
12 as follows:

13 (1) When land has once been classified under this chapter as open  
14 space land, farm and agricultural land, or timber land, it shall remain  
15 under such classification and shall not be applied to other use except  
16 as provided by subsection (2) of this section for at least ten years  
17 from the date of classification and shall continue under such  
18 classification until and unless withdrawn from classification after  
19 notice of request for withdrawal shall be made by the owner. During  
20 any year after eight years of the initial ten-year classification  
21 period have elapsed, notice of request for withdrawal of all or a  
22 portion of the land may be given by the owner to the assessor or  
23 assessors of the county or counties in which such land is situated. In  
24 the event that a portion of a parcel is removed from classification,  
25 the remaining portion must meet the same requirements as did the entire  
26 parcel when such land was originally granted classification pursuant to  
27 this chapter unless the remaining parcel has different income criteria.  
28 Within seven days the assessor shall transmit one copy of such notice  
29 to the legislative body which originally approved the application. The  
30 assessor or assessors, as the case may be, shall, when two assessment  
31 years have elapsed following the date of receipt of such notice,  
32 withdraw such land from such classification and the land shall be  
33 subject to the additional tax and applicable interest due under RCW  
34 84.34.108. Agreement to tax according to use shall not be considered  
35 to be a contract and can be abrogated at any time by the legislature in  
36 which event no additional tax or penalty shall be imposed.

37 (2) The following reclassifications are not considered withdrawals  
38 or removals and are not subject to additional tax under RCW 84.34.108:

1 (a) Reclassification between lands under RCW 84.34.020 (2) and (3);  
2 (b) Reclassification of land classified under RCW 84.34.020 (2) or  
3 (3) or chapter 84.33 RCW to open space land under RCW 84.34.020(1);

4 (c) Reclassification of land classified under RCW 84.34.020 (2) or  
5 (3) to forest land classified under chapter 84.33 RCW; (~~and~~)

6 (d) Reclassification of land classified under RCW 84.34.020(2) to  
7 agricultural lands of long-term commercial significance under section  
8 1 of this act; and

9 (e) Reclassification of land classified as open space land under  
10 RCW 84.34.020(1)(c) and reclassified to farm and agricultural land  
11 under RCW 84.34.020(2) if the land had been previously classified as  
12 farm and agricultural land under RCW 84.34.020(2).

13 (3) Applications for reclassification shall be subject to  
14 applicable provisions of RCW 84.34.037, 84.34.035, 84.34.041, section  
15 1 of this act, and chapter 84.33 RCW.

16 (4) The income criteria for land classified under RCW 84.34.020(2)  
17 (b) and (c) may be deferred for land being reclassified from land  
18 classified under RCW 84.34.020 (1)(c) or (3), or chapter 84.33 RCW into  
19 RCW 84.34.020(2) (b) or (c) for a period of up to five years from the  
20 date of reclassification.

21 **Sec. 4.** RCW 84.34.108 and 1992 c 69 s 12 are each amended to read  
22 as follows:

23 (1) When land has once been classified under this chapter as open  
24 space land, farm and agricultural land, or timber land, a notation of  
25 such classification shall be made each year upon the assessment and tax  
26 rolls and such land shall be valued pursuant to RCW 84.34.060 or  
27 84.34.065 until removal of all or a portion of such classification by  
28 the assessor upon occurrence of any of the following:

29 (a) Receipt of notice from the owner to remove all or a portion of  
30 such classification;

31 (b) Sale or transfer to an ownership, except a transfer that  
32 resulted from a default in loan payments made to or secured by a  
33 governmental agency that intends to or is required by law or regulation  
34 to resell the property for the same use as before, making all or a  
35 portion of such land exempt from ad valorem taxation;

36 (c) Sale or transfer of all or a portion of such land to a new  
37 owner, unless the new owner has signed a notice of classification  
38 continuance, except transfer to an owner who is an heir or devisee of

1 a deceased owner shall not, by itself, result in removal of  
2 classification. (~~The signed notice of continuance shall be attached~~  
3 ~~to the real estate excise tax affidavit provided for in RCW 82.45.120,~~  
4 ~~as now or hereafter amended.)) The signed notice of classification  
5 continuance shall be part of the real estate excise tax affidavit  
6 provided for in RCW 82.45.120 or attached as a separate document to the  
7 real estate excise tax affidavit. The notice of continuance shall be  
8 on a form prepared by the department of revenue. If the notice of  
9 continuance is not signed by the new owner and attached to the real  
10 estate excise tax affidavit, all additional taxes calculated pursuant  
11 to subsection (3) of this section shall become due and payable by the  
12 seller or transferor at time of sale. The county auditor shall not  
13 accept an instrument of conveyance of classified land for filing or  
14 recording unless the new owner has signed the notice of continuance or  
15 the additional tax has been paid. The seller, transferor, or new owner  
16 may appeal the new assessed valuation calculated under subsection (3)  
17 of this section to the county board of equalization. Jurisdiction is  
18 hereby conferred on the county board of equalization to hear these  
19 appeals;~~

20 (d) Determination by the assessor, after giving the owner written  
21 notice and an opportunity to be heard, that all or a portion of such  
22 land no longer meets the criteria for classification under this  
23 chapter. The criteria for classification pursuant to this chapter  
24 continue to apply after classification has been granted.

25 The granting authority, upon request of an assessor, shall provide  
26 reasonable assistance to the assessor in making a determination whether  
27 such land continues to meet the qualifications of RCW 84.34.020 (1) or  
28 (3). The assistance shall be provided within thirty days of receipt of  
29 the request.

30 (2) Within thirty days after such removal of all or a portion of  
31 such land from current use classification as open space land, farm and  
32 agricultural land, or timber land, the assessor shall notify the owner  
33 in writing, setting forth the reasons for such removal. The seller,  
34 transferor, or owner may appeal such removal to the county board of  
35 equalization.

36 (3) Unless the removal is reversed on appeal, the assessor shall  
37 revalue the affected land with reference to full market value on the  
38 date of removal from classification. Both the assessed valuation  
39 before and after the removal of classification shall be listed and

1 taxes shall be allocated according to that part of the year to which  
2 each assessed valuation applies. Except as provided in subsection (5)  
3 of this section, an additional tax, applicable interest, and penalty  
4 shall be imposed which shall be due and payable to the county treasurer  
5 thirty days after the owner is notified of the amount of the additional  
6 tax. As soon as possible, the assessor shall compute the amount of  
7 such an additional tax, applicable interest, and penalty and the  
8 treasurer shall mail notice to the owner of the amount thereof and the  
9 date on which payment is due. The amount of such additional tax,  
10 applicable interest, and penalty shall be determined as follows:

11 (a) The amount of additional tax shall be equal to the difference  
12 between the property tax paid as "open space land", "farm and  
13 agricultural land", or "timber land" and the amount of property tax  
14 otherwise due and payable for the seven years last past had the land  
15 not been so classified;

16 (b) The amount of applicable interest shall be equal to the  
17 interest upon the amounts of such additional tax paid at the same  
18 statutory rate charged on delinquent property taxes from the dates on  
19 which such additional tax could have been paid without penalty if the  
20 land had been assessed at a value without regard to this chapter;

21 (c) The amount of the penalty shall be as provided in RCW  
22 84.34.080. The penalty shall not be imposed if the removal satisfies  
23 the conditions of RCW 84.34.070.

24 (4) Additional tax, applicable interest, and penalty, shall become  
25 a lien on such land which shall attach at the time such land is removed  
26 from classification under this chapter and shall have priority to and  
27 shall be fully paid and satisfied before any recognizance, mortgage,  
28 judgment, debt, obligation or responsibility to or with which such land  
29 may become charged or liable. Such lien may be foreclosed upon  
30 expiration of the same period after delinquency and in the same manner  
31 provided by law for foreclosure of liens for delinquent real property  
32 taxes as provided in RCW 84.64.050 now or as hereafter amended. Any  
33 additional tax unpaid on its due date shall thereupon become  
34 delinquent. From the date of delinquency until paid, interest shall be  
35 charged at the same rate applied by law to delinquent ad valorem  
36 property taxes.

37 (5) The additional tax, applicable interest, and penalty specified  
38 in subsection (3) of this section shall not be imposed if the removal



1 of classification pursuant to subsection (1) of this section resulted  
2 solely from:

3 (a) Transfer to a government entity in exchange for other land  
4 located within the state of Washington;

5 (b)(i) A taking through the exercise of the power of eminent  
6 domain, or (ii) sale or transfer to an entity having the power of  
7 eminent domain in anticipation of the exercise of such power, said  
8 entity having manifested its intent in writing or by other official  
9 action;

10 (c) A natural disaster such as a flood, windstorm, earthquake, or  
11 other such calamity rather than by virtue of the act of the landowner  
12 changing the use of such property;

13 (d) Official action by an agency of the state of Washington or by  
14 the county or city within which the land is located which disallows the  
15 present use of such land;

16 (e) Transfer of land to a church when such land would qualify for  
17 exemption pursuant to RCW 84.36.020;

18 (f) Acquisition of property interests by state agencies or agencies  
19 or organizations qualified under RCW 84.34.210 and 64.04.130 for the  
20 purposes enumerated in those sections: PROVIDED, That at such time as  
21 these property interests are not used for the purposes enumerated in  
22 RCW 84.34.210 and 64.04.130 the additional tax specified in subsection  
23 (3) of this section shall be imposed; ((or))

24 (g) Removal of land classified as farm and agricultural land under  
25 RCW 84.34.020(2)(d); or

26 (h) Removal of land classified as agricultural lands of long-term  
27 commercial significance under RCW 84.34.020(9) because of one of the  
28 conditions listed in section 1 of this act.

29 NEW SECTION. Sec. 5. If specific funding for the purposes of this  
30 act, referencing this act by bill or chapter number, is not provided by  
31 June 30, 1997, in the omnibus appropriations act, this act is null and  
32 void.

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